



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

PIEDMONT REGIONAL OFFICE

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December 6, 2016

Cathy Taylor, Director, Electric Environmental Services
Dominion – Chesterfield Power Station
500 Coxendale Rd.
Chester, VA 23831

WARNING LETTER

RE: **WL # W2016-11-P-1003**

Dominion – Chesterfield Power Station

VPDES Permit No. VA0004146 (reissued/effective October 1, 2016)

VPDES Industrial Stormwater General Permit No. VAR051023 (effective July 1, 2014)

Dear Ms. Taylor:

The Department of Environmental Quality (DEQ or the Department) has reason to believe that Dominion's Chesterfield Power Station may be in violation of the State Water Control Law and Regulations.

This letter addresses conditions at the facility named above, and also cites compliance requirements of the State Water Control Law and Regulations. Pursuant to Va. Code § 62.1-44.15(8a), this letter is not a case decision under the Virginia Administrative Process Act, Va. Code § 2.2-4000 *et seq.* (APA). **DEQ requests that you respond within 20 days of the date of this letter.**

OBSERVATIONS AND LEGAL REQUIREMENTS

- a) **Observation:** On September 28 through September 29, 2016 an overflow from the Coal Pile Runoff Pond occurred resulting in a discharge of raw coal fines to Aiken Swamp. The facility estimated that the unauthorized discharge started at approximately 10:00 p.m. on September 28, 2016 and had ceased by 1:00 a.m. on September 29, 2016.

Legal Requirement: Part I.B.3. of VPDES Permit VA0004146 effective December 10, 2004 states "Any and all product, materials, industrial wastes, and/or storage of raw or

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intermediate materials, final product, by-product or wastes, shall be handled, disposed of, and/or stored in such a manner so as not to permit a discharge of such product, materials, industrial wastes, and/or other wastes to State waters, except as expressly authorized.”. In addition, Part II.R states “Solids, sludges, or other pollutants removed in the course of treatment or management of pollutants shall be disposed of in a manner so as to prevent any pollutant from such materials from entering state waters.”

- b) **Observation:** On September 28 through September 29, 2016 an overflow from the Coal Pile Runoff Pond occurred resulting in a discharge of raw coal fines to stormwater Outfall 055 via curb inlets located on the parking lot in the vicinity of the coal pile. This outfall discharges to the James River.

Legal Requirement: Part I.B.1 of VPDES Permit VAR051023 effective July 1, 2014 states “Allowable non-stormwater discharges. Except as provided in this section or in Part IV, all discharges covered by this permit shall be composed entirely of stormwater...”, Va. Code § 62.1-44.5(A) states “[e]xcept in compliance with a certificate or permit issued by the Board or other entity authorized by the Board to issue a certificate or permit pursuant to this chapter, it shall be unlawful for any person to: 1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; 2. Excavate in a wetland; 3. Otherwise alter the physical, chemical or biological properties of state waters and make them detrimental to the public health, or to animal or aquatic life, or to the uses of such waters for domestic or industrial consumption, or for recreation, or for other uses . . .” and 9 VAC 25-31-50 (A) states “[e]xcept in compliance with a VPDES permit, or another permit, issued by the board, it shall be unlawful for any person to: 1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or 2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, or for recreation, or for other uses.”

ENFORCEMENT AUTHORITY

Va. Code § 62.1-44.23 of the State Water Control Law provides for an injunction for any violation of the State Water Control Law, any State Water Control Board rule or regulation, an order, permit condition, standard, or any certificate requirement or provision. Va. Code §§ 62.1-44.15 and 62.1-44.32 provide for a civil penalty up to \$32,500 per day of each violation of the same. In addition, Va. Code § 62.1-44.15 authorizes the State Water Control Board to issue orders to any person to comply with the State Water Control Law and regulations, including the imposition of a civil penalty for violations of up to \$100,000. Also, Va. Code § 10.1-1186 authorizes the Director of DEQ to issue special orders to any person to comply with the State Water Control Law and regulations, and to impose a civil penalty of not more than \$10,000. Va. Code §§ 62.1-44.32(b) and 62.1-44.32(c) provide for other additional penalties.

The Court has the inherent authority to enforce its injunction, and is authorized to award the Commonwealth its attorneys' fees and costs.

FUTURE ACTIONS

After reviewing this letter, please respond in writing to DEQ **within 20 days of the date of this letter** detailing actions you have taken or will be taking to ensure compliance with state law and regulations. If corrective action will take longer than 90 days to complete, you may be asked to sign a Letter of Agreement or enter into a Consent Order with the Department to formalize the plan and schedule. *It is DEQ policy that appropriate, timely, corrective action undertaken in response to a Warning Letter will avoid adversarial enforcement proceedings and the assessment of civil charges or penalties.*

Please advise us if you dispute any of the observations recited herein or if there is other information of which DEQ should be aware. In the event that discussions with staff do not lead to a satisfactory conclusion concerning the contents of this letter, you may elect to participate in DEQ's Process for Early Dispute Resolution. Also, if informal discussions do not lead to a satisfactory conclusion, you may request in writing that DEQ take all necessary steps to issue a final decision or fact finding under the APA on whether or not a violation has occurred. For further information on the Process for Early Dispute Resolution, please see Agency Policy Statement No. 8-2005 posted on the Department's website under "Programs," "Enforcement," and "Laws, Regulations, & Guidance" (http://www.deq.virginia.gov/Portals/0/DEQ/Enforcement/Guidance/process%20for%20early%20dispute%20resolution%20no8_2005.pdf) or ask the DEQ contact listed below.

Your point of contact at DEQ in this matter is Ms. Azra Bilalagic. Please direct written materials to her attention. If you have questions or wish to arrange a meeting, you may reach Ms. Bilalagic at (804) 527-5011 or via email to Azra.Bilalagic@deq.virginia.gov.

Sincerely,



Heather A. H. Deihls
Water Compliance Manager

cc: File/ECM
J. Bryan and J. Abel – DEQ-PRO VPDES Permits (electronic copy)
A. Bilalagic – DEQ-PRO Water Compliance (electronic copy)
B. Wood – Dominion Chesterfield Power Station (electronic copy to Beverly.Wood@dom.com)
A. Boschen - Dominion Electric Environmental Services (electronic copy to amelia.h.boschen@dom.com)